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Attorneys for Defendant
QUIKSILVER, INC.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

CLAYTON D. BLEHM, dba FDC Investments, Inc., Plaintiff, v. BETSY MCINTYRE and QUIKSILVER, INC., Defendants.	Case No. 08CV1358 BTM NLS **DECLARATION OF MOLLY J. MAGNUSON IN SUPPORT OF QUIKSILVER INC.'S NOTICE OF MOTION AND MOTION TO DISMISS PLAINTIFF'S COMPLAINT OR, IN THE ALTERNATIVE, MOTION TO STAY ACTION PENDING RESOLUTION OF PRIOR STATE COURT ACTION** Date: October 17, 2008 Time: 11:00 a.m. Judge: Hon. Barry Ted Moskowitz Courtroom: 15

I, Molly J. Magnuson, declare as follows:

1. I am an attorney duly admitted and licensed to practice law before the courts of the State of California. I am an associate at the law firm of O'Melveny & Myers LLP, and am one of the attorneys with primary responsibility for representing defendant Quiksilver, Inc. ("Quiksilver") in this action. I have personal knowledge of the facts stated below and if called to testify, I could and would testify competently hereto. I am also one of the attorneys responsible for

representing DC Shoes, Inc., in the action filed against it in the San Diego Superior Court by plaintiff in both actions, Clayton D. Blehm.

2. On or about July 14, 2008, Plaintiff filed an Information Statement with the California Court of Appeals. (*See* Request for Judicial Notice filed concurrently herewith Ex. 10.) In that document, Plaintiff notified the California appellate court that he had been served with a copy of the Judgment on January 4, 2008. (*See id.*) It is expected that the Court of Appeal will dismiss Plaintiff's appeal upon a review of this document. In the event the Court of Appeal does not dismiss the appeal on its own initiative, DC Shoes intends to seek a dismissal of the appeal, in part, on the grounds that it was untimely.

3. To date, no substantive activity has occurred in this case. Quiksilver's Motion to Dismiss Plaintiff's Complaint or, in the Alternative, Motion to Stay Action Pending Resolution of Prior State Court Action is Quiksilver's first appearance before this Court. Co-defendant Betsy McIntyre removed the case on July 28, 2008, and, as far as I am aware, has not yet filed a response to the Complaint. No discovery has taken place.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on the 4th day of August, 2008, at Newport Beach, California.

Molly J. Magnuson

PROOF OF SERVICE BY MAIL

I am over the age of eighteen years and not a party to the within action. I am a resident of or employed in the county where the service described below occurred. My business address is 610 Newport Center Drive, 17th Floor, Newport Beach, California 92660-6429. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence collected from me would be processed on the same day, with postage thereon fully prepaid and placed for deposit that day with the United States Postal Service. On August 4, 2008 I served the following:

DECLARATION OF MOLLY J. MAGNUSON IN SUPPORT OF QUIKSILVER INC.'S NOTICE OF MOTION AND MOTION TO DISMISS PLAINTIFF'S COMPLAINT OR, IN THE ALTERNATIVE, MOTION TO STAY ACTION PENDING RESOLUTION OF PRIOR STATE COURT ACTION

by putting a true and correct copy thereof in a sealed envelope, with postage fully prepaid, and placing the envelope for collection and mailing today with the United States Postal Service in accordance with the firm's ordinary business practices, addressed as follows:

Lauren Castaldi
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 683
Ben Franklin Station
Washington, D.C. 20044

Roy R. Withers, Esq.
Law Office of Roy R. Withers
2802 Juan Street, Suite 12
San Diego, CA 92110

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on August 4, 2008, at Newport Beach, California.

Adonna Payne